



# House of Representatives

General Assembly

**File No. 657**

January Session, 2017

Substitute House Bill No. 7196

*House of Representatives, April 20, 2017*

The Committee on Judiciary reported through REP. TONG of the 147th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING NONADVERSARIAL DISSOLUTION OF MARRIAGE.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 46b-44a of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2017*):

3 (a) An action for a nonadversarial dissolution of marriage may be  
4 commenced by the filing of a joint petition in the judicial district in  
5 which one of the parties resides. The joint petition shall be notarized  
6 and contain an attestation, under oath, by each party that the  
7 conditions set forth in subsection (b) of this section exist.

8 (b) An action brought pursuant to subsection (a) of this section may  
9 proceed if, at the time of the filing of the action, the parties attest,  
10 under oath, that the following conditions exist: (1) The marriage has  
11 broken down irretrievably; (2) the duration of the marriage does not  
12 exceed [eight] nine years; (3) neither party to the action is pregnant; (4)  
13 no children were born to or adopted by the parties prior to, or during,

14 the marriage; (5) neither party has any interest or title in real property;  
15 (6) the total combined fair market value of all property owned by  
16 either party, [excluding all encumbrances, is less than thirty-five  
17 thousand dollars] less any amount owed on such property, is less than  
18 eighty thousand dollars; (7) neither party has a defined benefit pension  
19 plan; (8) neither party has a pending petition for relief under the  
20 United States Bankruptcy Code; (9) neither party is applying for or  
21 receiving benefits pursuant to Title XIX of the Social Security Act; (10)  
22 no other action for dissolution of marriage, civil union, legal separation  
23 or annulment is pending in this state or in a foreign jurisdiction; (11) a  
24 restraining order, issued pursuant to section 46b-15, or a protective  
25 order, issued pursuant to section 46b-38c, between the parties is not in  
26 effect; and (12) the residency provisions of section 46b-44 have been  
27 satisfied. After the filing of the joint petition and prior to the court  
28 entering a decree of dissolution of marriage pursuant to section 46b-  
29 44c, if a change occurs with respect to any of the conditions set forth in  
30 this subsection, one or both of the parties shall notify the court  
31 forthwith of the changed condition. For the purposes of this  
32 subsection, "defined benefit pension plan" means a pension plan in  
33 which an employer promises to pay a specified monthly benefit upon  
34 an employee's retirement that is predetermined by a formula based on  
35 the employee's earnings history and tenure of service.

36 (c) In addition to attesting to the conditions enumerated in  
37 subsection (b) of this section, any joint petition filed pursuant to  
38 subsection (a) of this section shall also state the date and place of  
39 marriage and the current residential address for each party.

40 (d) A joint petition shall be accompanied by financial affidavits  
41 completed by each party on a form prescribed by the Office of the  
42 Chief Court Administrator, a request for the court to order the  
43 restoration of a birth name or former name, if so desired by either  
44 party, and a certification attested to by the parties, under oath, that: (1)  
45 The parties agree to proceed by consent and waive service of process;  
46 (2) neither party is acting under duress or coercion; and (3) each party  
47 is waiving any right to a trial, alimony, spousal support or an appeal.

48 (e) If the parties submit a settlement agreement to the court that  
49 they are requesting be incorporated into the decree of dissolution, such  
50 settlement agreement shall be filed with the joint petition. Each party  
51 shall attest, under oath, that the terms of the settlement agreement are  
52 fair and equitable. If the court finds that the settlement agreement is  
53 fair and equitable, it shall be incorporated by reference into the decree  
54 of the court. If the court cannot determine whether such agreement is  
55 fair and equitable, the matter shall be docketed for the court's review  
56 in accordance with the provisions of section 46b-44d, as amended by  
57 this act.

58 (f) The provisions of subsection (a) of section 46b-67 shall not apply  
59 to a nonadversarial dissolution action brought under this section.

60 Sec. 2. Section 46b-44d of the general statutes is repealed and the  
61 following is substituted in lieu thereof (*Effective October 1, 2017*):

62 (a) If after review of a settlement agreement filed pursuant to  
63 subsection (e) of section 46b-44a, as amended by this act, the court  
64 cannot determine whether such settlement agreement is fair and  
65 equitable, the matter shall be docketed on a date not later than thirty  
66 days after the assigned disposition date and the court shall command  
67 that the parties appear before the court on such date. If the court  
68 determines that the settlement agreement is fair and equitable, the  
69 court may enter a decree of dissolution of marriage. If the court is  
70 unable to make such a determination, the court may order the  
71 termination of the nonadversarial dissolution action and order that the  
72 matter be placed on the regular family docket of the Superior Court.

73 (b) If after review of the joint petition, the court does not enter a  
74 decree of dissolution of marriage pursuant to subsection (b) of section  
75 46b-44c, the matter shall be docketed on a date not later than thirty  
76 days after the assigned disposition date and the court shall command  
77 that the parties appear before the court in order for the court to  
78 determine if the criteria in section 46b-44a, as amended by this act,  
79 have been met, and whether a decree of dissolution of marriage may  
80 enter. If the court does not enter the decree of dissolution of marriage,

81 the court may order the termination of the nonadversarial dissolution  
82 action and order that the matter be placed on the regular family docket  
83 of the Superior Court.

84 (c) If the matter is placed on the regular family docket of the  
85 Superior Court pursuant to subsection (a) or (b) of this section, all  
86 provisions of this chapter, except for the provisions of subsection (a) of  
87 section 46b-45, as amended by this act, shall apply to the matter. No  
88 new filing fee shall be imposed by the court.

89 Sec. 3. Section 46b-45 of the general statutes is repealed and the  
90 following is substituted in lieu thereof (*Effective October 1, 2017*):

91 (a) A proceeding for an annulment, a dissolution of a marriage or  
92 civil union or a legal separation shall be commenced by the service and  
93 filing of a complaint as in all other civil actions in the Superior Court  
94 for the judicial district in which one of the parties resides. The  
95 complaint may also be made by the Attorney General in a proceeding  
96 for annulment of a void marriage. The complaint shall be served on the  
97 other party.

98 (b) Any person entitled to service of process of a summons and  
99 complaint that commences an action for an annulment, a dissolution of  
100 marriage, a dissolution of civil union or a legal separation may waive  
101 such service by (1) executing a written waiver of service on a form  
102 prescribed by the Office of the Chief Court Administrator, and (2)  
103 filing an appearance with the court. Upon filing of both the waiver of  
104 service and the appearance of the person waiving such service, the  
105 action shall proceed as consistent with the provisions of this chapter.

106 [(b)] (c) If any party is an inmate [of a mental institution in this state]  
107 who is (1) committed to the custody of the Commissioner of  
108 Correction, and (2) a patient in a hospital for psychiatric disabilities, a  
109 copy of the complaint shall be served on the Commissioner of  
110 Administrative Services personally or by registered or certified mail. If  
111 any party is confined in an institution in any other state, a copy shall  
112 be so served on the superintendent of the institution in which the party

113 is confined.

114 Sec. 4. Subsection (a) of section 46b-66 of the general statutes is  
115 repealed and the following is substituted in lieu thereof (*Effective*  
116 *October 1, 2017*):

117 (a) [In] Except as provided in section 46b-44c, in any case under this  
118 chapter where the parties have submitted to the court [an] a final  
119 agreement concerning the custody, care, education, visitation,  
120 maintenance or support of any of their children or concerning alimony  
121 or the disposition of property, the court shall inquire into the financial  
122 resources and actual needs of the spouses and their respective fitness  
123 to have physical custody of or rights of visitation with any minor child,  
124 in order to determine whether the agreement of the spouses is fair and  
125 equitable under all the circumstances. If the court finds the agreement  
126 fair and equitable, it shall become part of the court file, and if the  
127 agreement is in writing, it shall be incorporated by reference into the  
128 order or decree of the court. If the court finds the agreement is not fair  
129 and equitable, it shall make such orders as to finances and custody as  
130 the circumstances require. If the agreement is in writing and provides  
131 for the care, education, maintenance or support of a child beyond the  
132 age of eighteen, it may also be incorporated or otherwise made a part  
133 of any such order and shall be enforceable to the same extent as any  
134 other provision of such order or decree, notwithstanding the  
135 provisions of section 1-1d.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2017</i>	46b-44a
Sec. 2	<i>October 1, 2017</i>	46b-44d
Sec. 3	<i>October 1, 2017</i>	46b-45
Sec. 4	<i>October 1, 2017</i>	46b-66(a)

**Statement of Legislative Commissioners:**

In Section 4(a), "subsection (c) of section 46b-44" was changed to "section 46b-44c" for accuracy.

**JUD**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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### ***OFA Fiscal Note***

#### ***State Impact:***

Agency Affected	Fund-Effect	FY 18 \$	FY 19 \$
Judicial Dept.	GF - Savings	Up to 951,500	Up to 951,500

Note: GF=General Fund

#### ***Municipal Impact:*** None

#### ***Explanation***

The bill allows a party to a dissolution of marriage or civil union, legal separation, or annulment to waive the service of process of the summons and complaint that is currently required. In cases that require a fee waiver, the Judicial Department is responsible for the payment of such service of process. In FY 16, there was a total of 3,460 cases that required a fee waiver. The average for service of process for each case is \$275. To the extent that the parties in cases that require a fee waiver choose to waive the service of process requirement, the bill results in savings of up to \$951,500 annually to the Judicial Department.

The bill makes additional changes to nonadversarial divorce actions that do not result in a fiscal impact.

#### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of cases.

**OLR Bill Analysis****sHB 7196*****AN ACT CONCERNING NONADVERSARIAL DISSOLUTION OF MARRIAGE.*****SUMMARY**

This bill amends the conditions for nonadversarial divorce actions (see below) and in so doing extends this divorce option to certain parties who (1) have been married for nine years or less instead of eight years or less and (2) own property with a total combined net fair market value less than \$80,000 instead of less than \$35,000.

Current law limits this divorce option to parties who do not have a defined benefit pension plan, but does not define this term. The bill expressly defines a “defined benefit pension plan” for the purpose of nonadversarial divorce actions.

Under the bill, if a judge terminates a nonadversarial process and places the matter on the Superior Court's regular family docket, the parties are exempt from (1) any new filing fees and (2) the complaint and service of process that starts a regular dissolution or legal separation.

The bill also makes changes related to marriage or civil union dissolution, legal separation, or annulment actions on the regular docket. It:

1. allows parties to waive service of process;
2. requires the chief court administrator to prescribe the waiver-of-service form;
3. clarifies proper service of process for Department of Correction (DOC) inmates; and



4. specifies that any child custody, care, education, visitation, maintenance, or support agreements the parties submit must be final.

It also makes conforming changes.

EFFECTIVE DATE: October 1, 2017

## **NONADVERSARIAL DIVORCE**

### ***Conditions***

A nonadversarial divorce is an expedited court process that allows a judge to enter a divorce decree without a hearing if the parties to the marriage file a notarized joint petition to begin the divorce process and meet certain criteria. Under current law, parties are eligible for this option if:

1. they have not been married for more than eight years;
2. the marriage has broken down irretrievably;
3. neither party is pregnant;
4. the parties did not have or adopt any children prior to, or during, the marriage;
5. neither party has any interest or title in real property;
6. the total combined fair market value of all property owned by either party, excluding all encumbrances, is less than \$35,000;
7. neither party has a defined benefit pension plan"
8. neither party has filed for bankruptcy;
9. neither party is applying for or receiving Medicaid benefits;
10. no other action for dissolution of marriage, civil union, legal separation, or annulment is pending in any jurisdiction;
11. no civil restraining order or protective order between the parties

is in effect; and

12. at least one party is a Connecticut resident.

The bill extends this divorce option to parties who have been married for nine years or less whose property has a total combined net fair market value of less than \$80,000.

It also expressly defines a “defined benefit pension plan” for the purpose of nonadversarial divorce actions as a pension plan in which an employer promises to pay a specified monthly benefit upon an employee's retirement that is predetermined by a formula based on the employee's earnings history and tenure of service.

### ***Termination of the Nonadversarial Process and Transfer to the Superior Court Docket***

By law, if the parties wish to have a settlement agreement incorporated in a nonadversarial divorce decree, they must submit it to the court with a joint petition and attest, under oath, that its terms are fair and equitable. If the court cannot find the agreement to be fair and equitable on its face, it may terminate the nonadversarial divorce action and place the matter on the Superior Court's regular family docket.

If the court does so, the bill (1) prohibits the court from imposing any new fees, (2) exempts the parties from the requirements to serve process and file a complaint, and (3) applies all other provisions that govern dissolution of marriage or civil union or legal separation.

## **SERVICE OF PROCESS**

### ***Service Waiver***

The bill allows a party to a dissolution of marriage or civil union, legal separation, or annulment to waive the service of process of the summons and complaint required to start such an action. The person may do so by (1) signing a written waiver of service on a form prescribed by the chief court administrator and (2) filing an appearance with the court. The action must meet all other legal

requirements as it proceeds.

***DOC Inmates***

The bill clarifies that process must be served on the administrative services commissioner if a party to a dissolution of marriage or civil union, legal separation, or annulment is in DOC custody and is a patient in a psychiatric hospital.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 40 Nay 0 (04/03/2017)